

**EXPEDITED HANDLING PROCEDURE
PURSUANT TO 37 C.F.R. § 1.116**

Application No. 09/544,349

Reply to Office action of April 6, 2000

REMARKS/ARGUMENTS

Initially, the Applicant objects strenuously to the issuance of a Final Office Action in this case, such action being a First Office Action after the filing of a request for continued examination. Pursuant to M.P.E.P. 706.07(d), Applicant respectfully requests that the finality be withdrawn for at least two reasons. First, the amendments made to the claims on May 16, 2003 removed at least one rejection and second, in the Office Action of May 29, 2003, the Examiner has used a different version of 35 U.S.C. 102(e) than in the previous Office Action. Such change in the rejection was not necessitated by the amendment made to the application.

Claim 1 has been objected to because of a minor informality wherein the Examiner has suggested that "mass or" should be canceled on line 8. The claim has been amended in accordance with the Examiner's requirement.

Claims 1 – 8, 10 – 14, 22, 25, 26, 28 – 31 and 41 have been rejected under 35 U.S.C. 102(a) as being clearly anticipated by Robie et al. (World Document 99/41998). Applicant has submitted herewith a Declaration under 37 CFR 1.132 and MPEP Sections 715.01 and 716.10. The Declaration verifies that the Robie et al. reference is not "by another" and therefore, the Applicant respectfully requests that the rejection under 37 U.S.C. 102(a) be withdrawn.

In a similar manner, claims 1 – 8, 10 – 14, 22, 25, 26, 28 – 31, 38 and 41 have been rejected under 35 U.S.C. 102(e) as being clearly anticipated by Robie et al. (U.S. Patent 6,291,008). Once again, the Applicant has included a Declaration by Mr. Robie indicating that the subject matter relied upon from U.S. Patent 6,291,008 in rejecting the present claims is not "by another" and therefore 35 U.S.C. 102(e) does not apply. To this end, the Applicant respectfully requests that this rejection be withdrawn.

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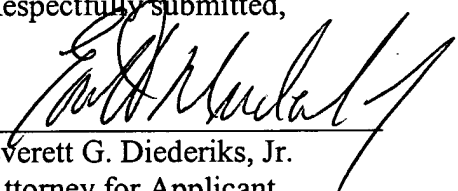
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In regards to the rejection of claims 9, 15, 17 – 21, 23, 24, 27, 32 – 37, 38 and 40, which have been rejected under 35 U.S.C. 103(a), Applicant respectfully submits that this rejection has also been overcome by the above-mentioned and therefore requests that the rejection be withdrawn. It is still submitted that the rejection under 35 U.S.C. 102(e)/103(a) is improper, in accordance with M.P.E.P. 706.02 (i)(1), given the common ownership between these cases.

Claims 1 – 15 and 17 – 41 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 27 of U.S. Patent 6,291,008. While Applicant disagrees with this rejection, in order to further the prosecution, Applicant has provided a Terminal Disclaimer. Therefore, the Applicant respectfully submits that this rejection should also be withdrawn.

Based on the above remarks, the amendment to claim 1, and the filing of both the Declaration by the inventor and the terminal disclaimer in this case, reconsideration of the allowance of the claims in this RCE application is respectfully requested. If the Examiner should have any additional concerns regarding the points raised herein, he is cordially invited to contact the undersigned at the number provided below to further expedite the prosecution.

Respectfully submitted,


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